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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

PAINTERS DISTRICT COUNCIL NO. 16,  
CARPET, LINOLEUM & SOFT TILE WORKERS  
LOCAL UNION NO. 12,

Petitioner,

v.

NEW BEGINNINGS FLOORS,

Respondent.

No.

**PETITION TO COMPEL  
ARBITRATION**

The Petition of Petitioner, respectfully shows:

1. Jurisdiction of this Court is based upon 29 U.S.C. § 185, 9 U.S.C. § 4 and 28 U.S.C. § 1337. This is a Petition to Compel arbitration of a labor dispute arising under a collective bargaining agreement.

2. Petitioner is a labor organization within the meaning of 29 U.S.C. § 152. It does business within this judicial district. It is a labor organization organized for the purpose of representing its members in their terms and conditions of employment.

3. Respondent New Beginning Floors ("Employer") is an employer in the floor covering industry doing business in this judicial district. It has performed work in Northern California. It is engaged in an industry affecting interstate commerce within the meaning of 29 U.S.C. § 185.

1           4.       A collective bargaining agreement exists between the Petitioner and the Employer  
2 entitled "Northern California Floor Covering Master Agreement."

3           5.       In June of 2007 a dispute arose between the parties concerning the pay  
4 practices of the defendant.

5           6.       Petitioner filed a grievance dated June 19, 2007 a copy of which is attached as  
6 Exhibits A.

7           7.       Respondent refused to respond to the grievance and counsel for the Petitioner  
8 followed up by way of a letter dated August 31, 2007 to the respondent. A copy of that letter is  
9 attached as Exhibit B.

10          8.       Respondent furthermore refused to respond to that letter and a subsequent letter was  
11 sent on September 24, 2007, a copy of which is attached as Exhibit C.

12          9.       The Agreement contains a grievance and arbitration procedure, a copy of which is  
13 attached as Exhibit D.

14          10.      Petitioner has sought to process this grievance through the grievance procedure and  
15 to arbitration through meetings and letters.

16          11.      Respondent has refused to process this dispute to arbitration by refusing to agree  
17 upon an arbitrator and other delay and stalling tactics.

18          12.      Petitioner has sent 3 demands that this grievance proceed through the grievance  
19 procedure including demands from Counsel for the Petitioner.


20          13.      The Respondent has failed and refused to respond to any request that this matter to  
21 proceed to arbitration as required by the Agreement.

22          14.      Respondent's refusal to arbitrate is without any justification. Such refusal is  
23 disruptive to labor relations, and calculated to delay an amicable resolution of a legitimate labor  
24 dispute. As such, the Employer has acted in bad faith, and an award of attorneys' fees is  
25 appropriate if not compelled. United Food & Commercial Workers Union v. Alpha Beta Co., 736  
26 F.2d 1371, 1383 (9th Cir. 1983).

1 WHEREFORE the Petitioner prays that this Court issue an order compelling the  
2 Respondent, to arbitrate the dispute concerning the grievance of June 2007. Petitioner furthermore  
3 requests attorneys' fees and costs, and for such other and further relief as to this Court deems just  
4 and proper.

5 Dated: December 6, 2007

WEINBERG, ROGER & ROSENFELD  
A Professional Corporation

7 By:   
8 DAVID A. ROSENFELD  
9 Attorneys for Petitioner

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